IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL WRIT PETITION NO.3878 OF 1995
WITH
CIVIL APPLICATION NO.329 OF 1996

Ramling Manappa Wakase and ors. Petitioners
Vs.
The Solapur Municipal Corportion
and ors. Respondents

Ms.Shilpa Mangle h/f. Mr.M.L.Patil for petitioners.
Mr.Amit Karkhanis h/f. Mr.Vineet Naik for resp.no.1.

CORAM: B.H.MARLAPALLE & D.B.BHOSALE,JJ.

May 03, 2006.

P.C.

1. The petitioners are the residents of village Salgarwadi, Taluka North Solapur, Dist.Solapur and they are agriculturists. Solapur Municipal Corporation had constructed sewage water plant and there was a proposal for lifting water from the sewage water tank by laying pipeline. The Municipal Corporation had suggested that the individuals could borrow money from the banks and install electric meters and pipeline and in lieu thereof they would be benefited, the water being made available for irrigation purpose. Accordingly the petitioners obtained loan from the State Bank of India. The said money was utilised by the Corporation for completion of the Water Scheme Nos.1 and 2 and the loan amount was directly disbursed to the Corporation. The Water

Scheme No.2 was entirely for catering to the irrigation needs of the petitioners and other agriculturists who had contributed in the scheme by borrowing money from the bank. After the schemes were ready it was handed over to Respondent NO.3 i.e. Sidheshwar Sahakari Pani Purwatha Sanstha. They started getting water supply for irrigation but suddenly it was disconnected. The petitioners claim that on one hand they have the liability to replay the loan and on the other hand they are deprived of water for irrigation. It appears that at some stage Dispute No.118 of 1990 came to be filed before the Co-operative Court at Solapur praying for orders directing the Respondent No.3 to accept the petitioners as members and further directing the Society to supply sewage water to the petitioners' land. The learned Judge of the Co-operative Court was pleased to reject the petitioners' prayer for supply of water on 4/5/1990 and the said order was also challenged in Appeal No.153 of 1990 before the Maharashtra State Co-operative Appellate Court, Bench at Pune. By the order dated 23/4/1991 the appeal was partly allowed and the Appellate Court held that the petitioners had been entitled to get the water supply from the society on payment of water charges

outstanding against them. The petitioners claim that though they made payments of outstanding water charges they did not get the water supply and, therefore, they filed Misc. Application No. 13 of 1992 in the decided appeal and prayed for contempt proceedings against the respondents. The application was disposed off on 27/11/1992 directing to supply water to the petitioners and Misc. Application was finally decided on 16/7/1993. The petitioners filed contempt petition No.14 of 1994 before this Court and it was admitted on 17/1/1994.

2. The petitioners contend that on account of borrowing of the loans from the nationalised bank their agricultural lands came to be hypothecated and they lost on both ends and they are required to repay the loan to the State Bank of India with interest while on the other hand they are not getting water supply from Scheme No.2.

3. As noted earlier, during the pendency of the petition the scheme was handed over to Respondent No.4-Karkhana and thereafter to some other agency as at present. The only issue which we were anxious to consider was the liability for repayment of bank

loans and, therefore, after hearing the petition for some time, we had adjourned the same for taking instructions from the respondent-Bank whether it was still insisting for recovery of loan amount or the loan amounts were written off. Though nobody was present for the bank on the previous occasions and so is the case today, the learned counsel for the Municipal Corporation has placed before us a copy of the letter dated 25/4/2006 stating that the record regarding the loan disbursement to the petitioners is not traceable. The bank has not filed any reply and reiterated its determination to proceed with the recoveries. There is no proof placed on record that the Bank has started recovery proceedings against the petitioners. It is not the case of the Bank that the petitioners have been defaulters and, therefore, recovery proceedings are required to be initiated against them. We, therefore, do not see any reason as at present to consider the issue of the petitioners' liability to repay the loan to the Bank or to compensate for the same. The issue of recovery from the petitioners in respect of the loan sanctioned to them and the money which was paid directly to the Corporation appears to be a dead issue and, therefore, we need not keep this petition

pending. Undoubtedly as and when the respondent - Bank seeks to take steps for recovery of the loan, the civil remedy of the petitioners or any one of them to contest the said recovery proceedings remains in-tact even though the petition is being disposed off by us.

4. Hence the petition is dismissed with a clarification that as and when the respondent-Bank seeks to recover the loan amount from the petitioners or any one of them, this order of dismissal of the petition will not come in their way or in the way of any one of them to challenge the recovery proceedings before an appropriate civil forum.

5. Civil Application No.329 of 1996 does not survive and the same stands disposed off.

(D.B.BHOSALE,J.) (B.H.MARLAPALLE,J.)